IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No. 348 of 2000

Decided on : October 17, 2006

Kaushalya Devi and others **…..Petitioners.**

VERSUS

Gurcharni Devi and others **…..Respondents.**

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The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the petitioners : Mr. K.D. Sood, Advocate.

For the Respondents : Mr. Naveen Bhardwaj, Advocate.

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. A petition, under Section 14 of the Urban Rent Control Act, was filed by the respondents-landlords against late Shri Ramji Dass, seeking his eviction, inter alia, on the ground that the tenant (said Ramji Dass) had ceased to occupy the premises continuously for a period of 12 months, after the commencement of the H.P. Urban Rent Control Act. During the pendency of the petition, Ramji Dass died. His widow, petitioner-appellant Kaushalya Devi, was brought on record as his LR. The Rent Controller allowed the petition, holding that the tenant had ceased to occupy the premises for a continuous period of 12 months, after coming into force of the H.P. Urban Rent Control Act. Appeal was filed. The Appellate Authority noticed that besides the widow, three sons and three daughters of Ramji Dass were also his legal representatives and held that those sons and

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Whether the reporters of the local papers may be allowed to see the Judgment?

daughters were required to be brought on record, being necessary party. Consequently, the Appellate Authority set aside the order of the Rent Controller and remanded the matter to him for deciding the same afresh. The Rent Controller then impleaded all the sons and daughters of the deceased as respondents. Parties were allowed to adduce evidence once again. The Rent Controller, after recording the evidence, again passed the order of eviction on the aforesaid ground. Appeal filed against the said order by the revision petitioners was dismissed by the Appellate Authority. It is against this order of the Appellate Authority that the present revision petition is directed.

3. I have heard the learned counsel for the revision petitioners and gone through the record.

4. The first submission made by the learned counsel is that after the remand of the case the newly added respondents, i.e. sons and daughters of Ramji Dass, were not afforded an opportunity of cross-examining the witnesses of the landlords, who had been examined prior to the remand of the case.

5. A perusal of the record shows that all the witnesses of the landlords had been examined during the life time of Ramji Dass, the original tenant, and, therefore, there was no need for permitting the newly added respondents to cross-examine them, because the new respondents were ordered to be impleaded on account of their being the LRs of Ramji Dass.

6. The learned counsel has also taken me through the evidence adduced by the parties. The witnesses examined by the landlords, including their attorney, testified in no uncertain terms that the tenant had ceased to occupy the premises, which are in the form

of a shop, in June, 1990. No doubt, the tenants, Kaushalya Devi and one of the sons of deceased Ramji Dass, impleaded as respondent after his death, and other witnesses examined by the revision petitioners controverted the oral evidence of the landlords and testified that the business of earthenware was still being run in the shop and that the shop never remained closed for more than 12 months, but the oral evidence led by the landlords appears to be weighty, because it is corroborated by the record maintained in the Office of Shop Inspector. The landlords examined the Shop Inspector, who testified that license to run the business was obtained by Ramji Dass in 1972 and he had been getting it renewed till 1988 and that thereafter it was not got renewed. The Inspector further testified that the shop had been lying closed after the expiry of the renewed period of license in 1989. This evidence lends credence to the oral evidence of the landlords. In any case, this Court, in exercise of its revisional power, is not supposed to re-appraise the evidence on a question of fact unless satisfied and convinced that the finding recorded by the Rent Controller and as affirmed by the Appellate Authority based on such evidence is perverse, which is not the case here.

7. For the foregoing reasons, the revision petition is dismissed.

(Surjit Singh)
Judge.

October 17, 2006(sd)